

REPORT OF INVESTIGATION

(Office of Inspector General - Washington, D.C. 20520)

Office of Origin OIG – Investigations (INV)		Date of Report August 22, 2006	
Name and Title Kenneth Y. Tomlinson Chairman Broadcasting Board of Governors		Type of Investigation Administrative Misconduct	Type of Report <input type="checkbox"/> Preliminary <input checked="" type="checkbox"/> Final <input type="checkbox"/> Supplemental
Social Security Number		<input checked="" type="checkbox"/> Employee <input type="checkbox"/> Applicant <input type="checkbox"/> Non employee	
Date of Birth	Place of Birth North Carolina	Position and Grade Chairman	
Headquarters (address) 330 Independence Ave, S.W., Suite 3360, Wash., D.C. 20237		Date Entered on Duty August 6, 2002	
Post of Duty Washington, DC		Period of Investigation August 2005 to June 2006	

BASIS FOR INVESTIGATION

This investigation was predicated upon the receipt of a Congressional Inquiry (letter) dated July 15, 2005, from three senior members of the Senate and House committees with jurisdiction over the Broadcasting Board of Governors (BBG). The letter asked the Office of Inspector General (OIG) to conduct an investigation into allegations of misconduct by BBG Chairman Kenneth Y. Tomlinson. The letter cited four principal allegations of misconduct and also included a copy of a letter from a former BBG employee who made additional allegations. During the course of the investigation, INV received an additional allegation regarding contract irregularities. (Tab 1) The following allegations were investigated:

ALLEGATIONS

- I) Whether Tomlinson directed the hiring of ☐ a personal friend, as a contractor to perform services for the BBG in violation of 5 CFR 2635.702 - Use of public office for private gain of friends.
- II) Whether Tomlinson used government resources in support of his horse racing operation in violation of 18 USC § 641 – Embezzlement and Theft; Public money, property or records, 5 CFR Part 2635.704(a) – Use of Government property, and 5 CFR Part 2635.705(a)(b) - Use of Official Time.
- III) Whether Tomlinson exceeded the maximum allowable days/hours worked contrary to Section 304 of the United States International Broadcasting Act (USIBA) of 1994, which states that BBG board members shall not be “regular full-time employees of the United States Government.”

Distribution	No.	Case Number	Signature of Investigator Making Report
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05-061 File	1	Title Deputy Assistant Inspector General for Investigations	Office (City) Arlington, VA

IV) Whether Tomlinson requested compensation from both the BBG and the Corporation for Public Broadcasting (CPB) for the same hours worked, in violation of 18 USC § 641 – Embezzlement and Theft; Public money, property or records.

V) Whether Tomlinson directed BBG staff to work on matters unrelated to BBG business, including, but not limited to, issues related to the CPB, in violation of 18 USC § 641 – Embezzlement and Theft; Public money, property or records, 5 CFR Part 2635.705(b) – Use of a subordinate's time and in violation of 5 CFR Part 2635.704(a) – Use of Government property and 31 USC § 1301(a) – Money and Finance (appropriations).

VI) Whether Tomlinson spent a substantial portion of his time at the BBG working on business related to his position at the CPB and billed the BBG for these hours in violation of 18 USC § 641 – Embezzlement and Theft; Public money, property or records, 5 CFR Part 2635.705(a) – Use of official time, and 31 USC § 1301 – Money and Finance (appropriations).

RESULTS OF INVESTIGATION

Based on interviews, legal opinions from the OIG Office of Counsel, statements and legal opinions from BBG officials, the review of contract documentation and BBG office files; emails, telephone records, time and attendance and expense reports; the investigation determined the following:

I) The investigation determined that Tomlinson requested the hiring of [redacted] a friend and a retired government annuitant, as a contractor. It was determined that the contracts were awarded without the knowledge of other board members and other board staff. Additionally, Tomlinson signed invoices along with the Agency Representative to the Contracting Officer (ARCO), totaling \$244,813.17, acknowledging [redacted] services were received and completed without [redacted] providing any written reports or supporting documentation to the ARCO that was required in the statement of work under contract number BBGGCON2805C5616.

II) The investigation determined that Tomlinson used BBG resources in support of his horse racing operation.

III) The investigation determined that during 2003 through 2005 Tomlinson requested compensation in excess of the 130 day annual maximum, contrary to the USIBA of 1994, which states BBG board members shall not be regular full-time employees of the US Government, which in turn, is contrary to Tomlinson's SGE status.

IV) The investigation determined that Tomlinson requested and received wage compensation from both the BBG and CPB for the same days worked on 14 occasions. However, the investigation could not substantiate that they were for the same hours worked on the same days.

V) The investigation determined that Tomlinson directed BBG staff to work on matters unrelated to BBG that included CPB business and other personal matters.

VI) The investigation determined that Tomlinson had conducted CPB work while at the BBG and had billed the BBG for those hours. However, the investigation was unable to determine the full extent of hours of CPB related activities as alleged.

DEPARTMENT OF JUSTICE COORDINATION

The results of investigation were presented to the United States Attorney's Office (USAO), District of Columbia, Fraud and Public Corruption Section, which determined that criminal investigation was not warranted. The allegation relating to the contractor is pending at the Civil Division.